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Remarks

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The rejection of claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,119,211 to Boyer et al. ("Boyer") is respectfully traversed.

Boyer teaches a device (illustrated in Figures 2, 3, and 6) intended for use in aligning miniceramics 25. The device includes a plurality of substantially parallel guide tracks 30 formed in plate 32. The ends of each of the guide tracks is provided with a stop 34, which prevents movement of the miniceramics beyond the end of the guide track, but allows them to be picked up, in a predetermined alignment, by transport mechanism 54.

In contrast to the device of Boyer, the feeder chute as presently claimed is characterized by channels whose termini (at the discharge end) are "free from any encumbrance" (i.e., lacking stops). The device of Boyer neither teaches nor suggests such a device as presently claimed and therefore cannot anticipate the presently claimed invention. For this reason, the rejection of claims 1 and 2 over Boyer should be withdrawn.

The rejection of claims 3-7 and 10 under 35 U.S.C. § 103(a) for obviousness over Boyer in view of either U.S. Patent No. 6,488,141 to Pritchard et al. ("Pritchard"), U.S. Patent No. 6,041,911 to Gebhart ("Gebhart"), or U.S. Patent No. 2,456,031 to Spain ("Spain") is respectfully traversed.

The teachings of Boyer are set forth above.

Pritchard teaches an aligning device 400 that includes a trough 403 which contains a plurality of side-by-side channels 456 separated by an apex 457 formed therebetween. The channels also include a portion (456A) with nearly vertical sidewalls. Tapered ribs 470 are provided on apexes 457. All of the channels terminate in a co-planar arrangement (see Figures 9 and 10).

Gebhart teaches a device for sorting blocks formed of concrete or concrete-like material. The sorting device includes collecting channels that are separated by run-on surfaces 18,19, which fitted with stop pins 20. All of the channels terminate in a co-planar arrangement (see Figure 1).

Spain teaches a device used for aligning candy, the device including a frame 10 with a plurality of spaced parallel guide members 11. At the receiving end of the device, the guide members 11 each possesses a plurality of upstanding elements 19 mounted on the

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upper surfaces thereof. All of the channels formed by the guide members terminate in a coplanar arrangement (see Figures 1 and 2).

Applicant submits that the combination of Boyer with any one of or all of Pritchard, Gebhart, and Spain would have failed to have rendered the presently claimed invention obvious at the time the invention was made. In particular, the cited art fails to teach the combination of a device that includes "a plurality of channels formed in the bottom member within the discharge zone and extending in the direction between the first and second ends, wherein one of the plurality of channels has a terminus defining a first discharge plane and a second channel adjacent to the one channel has a terminus defining a second discharge plane, the second discharge plane being spaced apart from the first discharge plane" and where "the terminus of each channel is free from any encumbrance."

Boyer specifically teaches away from a device that is free from encumbrances at the channel termini, because the stops 34 are required in the operation of the device of Boyer. None of Pritchard, Gebhard, and Spain overcome the deficiency of providing a device that includes the plurality of channels where, as presently claimed and noted above, several channels include distinct discharge planes and the channels are free from any encumbrance. Though Pritchard, Gebhard, and Spain describe devices that include channels free from any encumbrance, these references fail to provide any motivation for combining the above-noted features. In particular, applicants submit that the different discharge planes would interfere with downstream equipment (i.e., between units 400 and 500 in Pritchard; between device 10 and conveyor 20; and between the device 1 and further downstream sorting arrangements described but not illustrated in Gebhard at column 4, lines 58-67).

Because Boyer in combination with any or all of Pritchard, Gebhart, and Spain fail to teach or suggest the combination of elements in the device as recited in claim 1, the combination of references likewise fails to teach or suggest the invention as claimed in dependent claims 3-7 and 10.

Applicant further submits that the limitations of claim 6 are identified in the specification as allowing for adaptation of the device so as to allow for "handling a broader range of particulate matter sizes." Thus, the claimed limitation, though not necessarily critical (and therefore not specified in independent claim 1) affords a desirable feature of one embodiment of the invention. Particulate matter, such as crushed stone aggregate, differs in size and is typically sorted in accordance therewith. The invention of claim 6 allows for the flexibility of the device in handling different sizes of such particulate matter. This feature cannot be summarily dismissed as non-critical and, therefore, a non-inventive feature.

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Applicant notes that the PTO has failed to demonstrate where the prior art teaches or suggests such a feature.

Applicant further submits that the limitations of claim 10 are identified in the specification as achieving "maximum two-dimensional spacing of particulate matter." This precludes particulate matter discharged from one channel from interfering with the subsequent image capture of particulate matter discharged from, e.g., an adjacent channel. As such, the claimed limitation, though not necessarily critical (and therefore not specified in independent claim 1), is a feature of one embodiment of the invention. This feature cannot be summarily dismissed as non-critical and, therefore, a non-inventive feature. Applicant notes that the PTO has failed to demonstrate where the prior art teaches or suggests such a feature.

In view of all of the foregoing, applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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